THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.20719 OF 1999

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Dated: 22nd August, 2005.

Between :

S.Srinivasa Rao

… Petitioner

and

1. Industrial Tribunal-cum-Labour Court,

Rep. by its Presiding Officer, Warangal and another

… Respondents

ORDER:

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This writ petition is filed by the Workman being aggrieved by the award made in I.D.No.5 of 1993, dated 07-06-1996, on the file of the Industrial Tribunal-cum-Labour Court, Warangal, wherein the claim petition filed by the petitioner under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short, 'the Act') was rejected *in toto* without granting any relief.

2. It is the case of the petitioner that he was appointed as a Conductor into the services of the Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C) with effect from 05-05-1988. While so, on
09-12-1990 when he was conducting bus bearing No.5647 on the route Manuguru to Kothagudem, a check was exercised at stage No.6 by the checking officials and certain cash and ticket irregularities were found. On the basis of the same, a charge-sheet was issued by the second respondent-Depot Manager, A.P.S.R.T.C., Khammam Depot (for short, 'Management'), on 17-12-1990. Though the petitioner

submitted a detailed explanation, the same was not properly considered and a detailed enquiry was ordered. The Enquiry Officer, without properly appreciating the evidence on record, submitted a report holding the petitioner guilty of the charges. On the basis of the Enquiry Officer's report, the disciplinary authority-second respondent herein passed an order of removal from service dated 27-05-1991. The appeal and further review filed by the petitioner were rejected. Having no other option, the petitioner raised a dispute under Section 2-A(2) of the Act before the Industrial Tribunal-cum-Labour Court, Warangal. According to the petitioner, the Labour Court has not properly appreciated the facts and circumstances of the case and dismissed the claim petition without granting any relief. According to the petitioner, the award passed by the Labour Court is erroneous and the Labour Court has not considered at least as to the proportionality of the punishment imposed on him in view of the fact that he had good past record of service. In fact, the Labour Court misguided itself in holding that there was *mala fide* intention on the part of the petitioner and it is clearly established it was not part and parcel of the charge itself.

3. Though no counter affidavit, the learned Counsel for the second respondent-Management strenuously contended that the charge levelled against the petitioner is grave in nature and proved and as such, the Labour Court was justified in refusing to grant any relief and no interference is called for by this Court under Article 226 of the Constitution of India.

4. I have given my earnest consideration to the respective submissions made by the learned Counsel on either side, perused the award under challenge and other material made available on record.

5. It is an admitted fact that the past service of the petitioner-Workman from the date of his appointment i.e. 05-05-1988 till the date of removal was unblemish and this is the first misconduct, which has been committed by the petitioner. The misconduct is that the petitioner having collected fare of Rs.15/- from three individual passengers who boarded the bus at Palvancha and alighting the bus without tickets at Kothagudem, ex-stages from 7 to 6 and failed to issue tickets to them. Further, the petitioner also failed to close Statistical Return at stage Nos.7 and 6. No doubt, the petitioner gave an explanation that he was in the process of issuing tickets and the

passengers under the charge boarded the bus at Palvancha ex-stage No.7 and were alighting the bus at Kothagudem
ex-stage No.6. In the meanwhile, the check had taken place. Being short distance, he could not issue tickets to all of them immediately and in fact, there were more number of passengers in the bus and that was the reason he could not complete the tickets at stage No.7 before it reaches stage No.6. Thus, the explanation given by the petitioner is not unusual and these things do happen in the normal course of conducting a bus. However, it is misconduct on the part of the petitioner and the same was proved. This Court cannot go into as to the sufficiency of the evidence in a domestic enquiry conducted in the departmental proceedings. Therefore, the conclusions reached by the Labour Court cannot be found fault, except the finding that there was a *mala fide* intention on the part of the petitioner and the same is clearly established without there being a charge to that extent. Further, the Labour Court has not examined as to the proportionality of the punishment. Admittedly, the petitioner's past service was clean and this being first misconduct on the part of the petitioner and the petitioner himself confessed to this misconduct saying that he was in the process of issuing tickets, therefore he was guilty of not issuing tickets to those three passengers immediately the matter could have been taken leniently. On the other hand, the Labour Court had not taken a lenient view of the matter while exercising its powers vested under Section 11A of the Act. Therefore, I am of the opinion that the punishment imposed by the second respondent-Management removing the petitioner-Workman from service, in the given circumstances of this case, is arbitrary and illegal.

6. In the result, the award passed by the Labour Court is set aside and the second respondent-Management is directed to reinstate the petitioner-Workman into service as a fresh Conductor. The petitioner-Workman is not entitled for any back wages or continuity of service and other attendant benefits.

7. The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V. RAMULU, J

22nd August, 2005.

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